



“You Have Obtained a Final Judgment: Now What?”



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The public has a general view that once a judge has rendered his decision and a final judgment is entered the case is over. However, in the event that the plaintiff prevails and is awarded a money judgment or either the plaintiff or defendant prevails and is awarded attorneys fees a second part of the case involving collection is required.

I recently attended a hearing where a plaintiff was acting pro se (without the services of an attorney) and the judge awarded her a final judgment. She looked across the table and asked the defendant when she could expect his check. The defendant leered back across the table and merely laughed.

The plaintiff was extremely confused and frustrated. She left the hearing and I doubt she ever made any collection efforts. The final judgment she received that day was merely a piece of paper suitable for framing.

The collection process can be challenging. Occasionally, a defendant will offer to pay the final judgment or a portion thereof in order to obtain a full release or satisfaction of the final judgment.

However, more often than not, a defendant will refuse to pay. In this circumstance a certified copy of the final judgment should be recorded in each county wherein the defendant may own real property.

Furthermore, a judgment lien certificate should be filed in Tallahassee in accordance with §55.203 of the Florida Statutes. The judgment lien certificate, once filed, will provide notice and establish priority with regard to the debtor's personal property. The judgment lien certificate is required to be filed before a party may instruct the sheriff to pick up personal property owned by the defendant and have same sold.

The most effective tool in order to collect a judgment is a garnishment to freeze a bank account. A garnishment procedure is invoked by filing the necessary forms with the clerk of the court which identify a bank or third party who may have in its possession monies owed to the defendant. The garnishment procedure is found in Chapter 77 of the Florida Statutes.

Once a garnishment is served upon a bank or third party the monies in the account are frozen pending notice to the defendant and an opportunity to dispute the seizure of funds.

The garnishment procedure is the best way to obtain payment because it is the least expensive method and simplest procedure.

The garnishment procedure is extremely effective in collecting judgments against corporations. The corporation may have several accounts receivable that will be paid in a 30-60 day timeframe. Serving the garnishment upon the customers of a corporation will intercept these monies. A judgment against an individual is more problematic.

An individual may be “the head of household” which severely restricts the percentage of the paycheck that can be garnished. Moreover, if the individual earns less than an established threshold, no garnishment can be obtained.

A plaintiff is also restricted as to the assets that are available to pay the judgment. For example, a judgment against a husband will not encumber assets, bank accounts or personal property owned by husband and wife. A judgment against one spouse generally does not encumber marital property.

A plaintiff's efforts to obtain payment are oftentimes stymied by bankruptcy, homestead exemptions, head of household exemptions, marital asset exemptions as well as competing claims of other creditors.

A party would be wise to investigate the assets of a target prior to initiating litigation in order to assess the opportunities for collection. Otherwise you too could receive a paper judgment with no monetary value.

